

**Applicant:** Bernalillo County  
Zoning, Building, Planning &  
Environmental Health Department  
111 Union Station St. SE  
Albuquerque, NM 87111

**Property Owner:** Joseph H. Danzer  
4813 Glenwood Hills Dr. NE  
Albuquerque, NM 87117

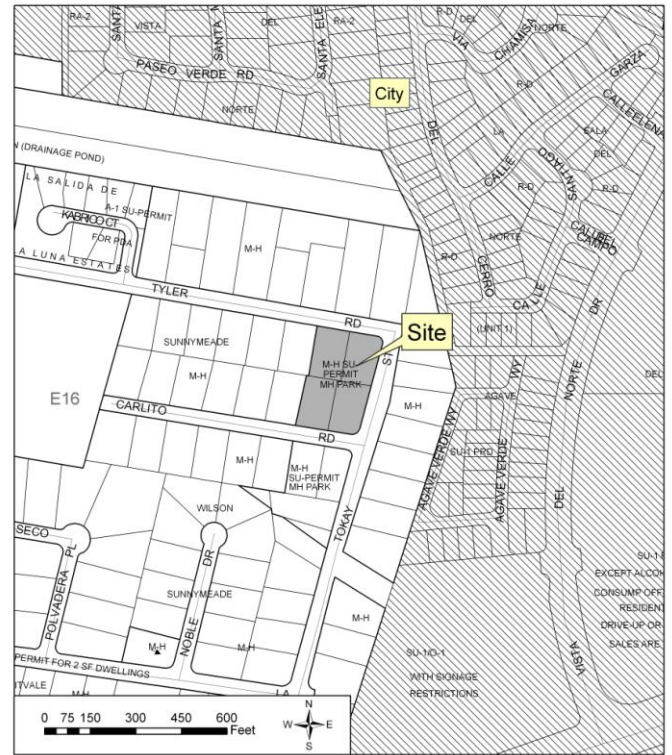
**Location:** 740 Tyler Rd. NE  
740 & 747 Carlito Rd. NE

**Property Size:** 1.64 acres (approximately)

**Existing SUP:** Special Use Permit for a  
Mobile Home Park

**Zoning:** M-H

**Recommendation:** Cancellation



**Summary:** The Zoning, Building, Planning & Environmental Health Department proposes cancellation of an existing Special Use Permit for a Mobile Home Park (CSU-83-6). Despite contact from the Zoning Enforcement Office, the landscaping on the property also does not comply with the approved site plan. In addition, the current location and size of the mobile homes on the site is not consistent with the approved site plan. The property owner has neither abated the violations nor made application to amend the SUP to allow for the activities and current site configuration.

**Staff Contact:** Catherine VerEecke, Program Planner

**Attachments:**

1. Notice of Special Use Permit (2/15/83)
2. Notices of violation (2007, 2008)
3. Property owners' responses to Notices of Violation
4. Notice of intent to cancel SUP (December 3, 2009)
5. Zone atlas page, land use map
6. Letter from Northeast Valley Neighborhood Association
7. Approved site plan (2/16/83) (Commissioners only)

CSU-83-6     Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for a Mobile Home Park on Lots 7, 8, 9 & 10, Block 2, Sunnymeade Addition, located at 740 Tyler Road NE and 743 & 747 Carlito Road NE, zoned M-H, and containing approximately 1.64 acres. (E-16)

## AREA CHARACTERISTICS AND ZONING HISTORY

### Surrounding Zoning & Land Uses

	<b>Zoning</b>	<b>Land use</b>
<b>Site</b>	M-H	Mobile homes
<b>North</b>	M-H	Single family residential
<b>South</b>	M-H with Special Use Permit for Mobile Home Park	Single family residential
<b>East</b>	M-H	Mobile homes
<b>West</b>	M-H	Single family residential

## **BACKGROUND**

### **Special Use Permit History & Overview**

On February 15, 1983, the Board of County Commissioners authorized an amendment to an existing Special Use Permit to allow an additional unit for a mobile home park on a 1.64 acre property (4 lots) located on the corner of Tokay Rd. and Tyler Rd. The underlying zoning of the property is M-H. The original Special Use Permit on the property was for three lots with eight mobile homes (CSU-78-30). The second Special Use Permit included the fourth lot and an additional three units, for a total of 11 units (CSU-78-78). In 1983, the current owner of the property requested the current Special Use Permit to allow an additional unit, for a total of 12 units. The current site plan, approved on 2/16/83, included 12 mobile homes, small storage buildings, and new landscaping around the periphery of the property and around each mobile home pad. The site plan also included a solid wall along a portion of the west property line that abuts residential use and a 20 foot wide driveway along the west property line, with chip seal surfacing.

However, since the approval of the Special Use Permit request in 1983, there have been various violations of the zoning ordinance and the Special Use Permit. These have included the failure to provide landscaping and irrigation as shown on the site plan, failing to provide the correct surface for the driveway and blocking the driveway along the west portion of the property with storage and fences.

In 2007 and 2008, letters were sent from the Zoning Administrator's office indicating that the property was not in compliance with the approved site plan (Attachment 3). The applicant responded in writing to the notices, but no obvious actions were taken by the property owner to address the violations (Attachment 4). On December 3, 2009, the Zoning Administrator sent the property owner a letter of intent to cancel the Special Use Permit. The applicant has been in contact with staff, but the violations still have not been addressed.

Most recently, a follow-up inspection by staff revealed that the property remains in violation. The mobile homes are improperly placed and the required landscaping has not been installed. In addition, several of the mobile homes do not meet the setbacks shown on the site plan (from the property line and between several of the mobile homes), and there are additional structures on the site not shown on the site plan. A double wide mobile home has been placed in the northwest portion of the property, when the site plan shows only single wide units. The driveway along the west property line has not been properly surfaced and it is blocked by stored materials and gates.

### **Subject Site & Surrounding Properties**

The property is located east of Edith Blvd. to the south of Tyler Rd., west of Tokay Rd., and to the north of Osuna Rd. A majority of the properties nearby the site have M-H zoning. However, properties to the south of the subject site (across Carlito Rd.) have had Special Use Permits for Mobile Home Courts (CSU-75-38, CSU-78-63), although it appears that these uses are being removed from the properties. Further west along Tyler Rd. two properties have received Special Use Permits for Planned Development Areas--Residential (CSU-50027 and CSU-50028), but these have yet to develop. Another property along Tyler Rd. nearby Edith Blvd. has a Special Use Permit for a Mobile Home Park (CSU-74-86) and one for an RV Campground (CSU-91-7).

## **APPLICABLE REGULATIONS & POLICIES**

### **Comprehensive Zoning Ordinance of Bernalillo County**

#### **Section 18. Special Use Permit Regulations.**

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

- (a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.
- (b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.
- (c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.
- (d) Any violation of the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

## **ANALYSIS**

This request seeks to cancel a Special Use Permit for a Mobile Home Park on a 1.64 acre property located on the south side of Tyler Rd. and east of Tokay St. (CSU-83-6). Since the 1970s, the mobile home park has expanded from three lots with eight units to four lots with 12

units under several Special Use Permits. The current Special Use Permit allowed the addition of the 12<sup>th</sup> unit on the property and superseded the previous Special Use Permit (CSU-78-78).

Since the approval of the current permit (CSU-83-6), the subject property has not complied with the approved site plan, including insufficient landscaping and the placement of mobile homes on the property, which does not match the site plan. There also are additional, unapproved structures (e.g., storage, carports) on the property, and the road shown on the site plan is currently blocked and is not properly surfaced with a chip seal coat, as required by the approved site plan. The property owner was notified of the current violations on the property in 2007 and has communicated several times with County staff, but he has been unwilling to make the necessary changes to the site to bring the property into compliance or to apply for a new Special Use Permit. This property is zoned M-H, and this Special Use Permit has allowed additional mobile homes to be located on the property. As Special Use Permits authorize uses that are not expected or generally allowed to occur within a zone, compliance with any and all limitations is of the utmost importance.

The short term solution to this matter may appear to be advisement from the County to the property owner for compliance with the approved site plan and conditions of approval. However, it should be noted that this matter has been turned over from the Zoning Enforcement Office for cancellation because of the limited effort demonstrated by the property owner since the 1980s to remedy the violations on the property and ensure observance of the applicable standards. Although the Special Use Permit was granted for the life of the use, issues with landscaping, setbacks, and internal driveway have persisted, and the site, which abuts residential properties, is also in very poor condition. In any case, persistent noncompliance on the part of the owner necessitates the recommendation of cancellation of the Special Use Permit for a Mobile Home Park (CSU-83-6).

The Northeast Valley Neighborhood Association has submitted a letter in support of the cancellation of this Special Use Permit (Attachment 6).

### **Proposed Findings for Cancellation**

1. This is a request for the cancellation of a Special Use Permit for a Mobile Home Park on Lots 7, 8, 9 & 10, Block 2, Sunnymeade Addition, located at 740 Tyler Road NE and 743 & 747 Carlito Road NE, zoned M-H, and containing approximately 1.64 acres.
2. This matter is a result of continued violations of the Special Use Permit (CSU-83-6) and the failure to comply with the site development plan approved by the Board of County Commissioners on February 15, 1983.
3. The property owner has failed to comply with the approved site development plan, dated February 16, 1983. Landscaping has not been installed, the driveway along the west property line has been blocked, and mobile homes have been relocated on the property and do not meet required setbacks.
4. The Bernalillo Zoning Administrator notified the property owner of noncompliance with the provisions of the Special Use Permit on December 3, 2009, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
5. This decision removes the Special Use Permit (CSU-83-6) from the property, and reverts the zoning on the site back to the underlying zoning designation of M-H (Mobile Home).

### **RECOMMENDATION:**

Cancellation of CSU-83-6.

Catherine VerEecke, Program Planner